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Wendy Bluemling
Director - Regulatory Affairs

EX PARTE OR LATE FILED

August 5, 1998

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Washington, DC 20554

Re: Ex Parte CC Docket No. 96-115 (Telecommunications Carriers' Use of CPNI and Other Customer Information)

Dear Ms. Salas:

On July 16, 1998 the Connecticut Department of Public Utility Control (DPUC) submitted a Petition for Waiver with the Federal Communications Commission (Commission) of the Customer Proprietary Network Information (CPNI) rules contained in 47 U.S.C. §222, Privacy of Customer Information (§222). As more fully described in the DPUC's pleading, the waiver is being sought for the limited purpose of facilitating a ballot process in furtherance of local competition. The ballot will allow Southern New England Telephone Company (SNET) customers to elect a Connecticut certified local exchange carrier (CLEC).

Ballot implementation requires a significant amount of planning time. Ballot planning at the DPUC, in conjunction with SNET and the CLECs, is well underway to meet the June 1999 balloting target date. However, a CPNI waiver is critical to further ballot planning. Consequently, SNET respectfully urges the FCC to set the procedural schedule for comments as expeditiously as possible to allow the balloting of Connecticut customers to move forward.

Sincerely,

Attachment: Connecticut Department of Public Utility Control's Petition for Waiver

Copy: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
Katherine C. Brown
James D. Schlichting
Lawrence E. Strickling
Carol E. Matthey

061



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FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Petition of the)
Connecticut Department of Public Utility Control)
For Waiver of the Customer Proprietary Network)
Rules by the Federal Communications Commission)

DOCKETED
JUL 16 1998
COMM-FED

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

July 16, 1998

Connecticut Department
of Public Utility Control

Before the
Federal Communications Commission
Washington, DC 20554

I. Introduction

Pursuant to 47 CFR §1.3, the Connecticut Department of Public Utility Control (Department) hereby seeks a waiver of the Customer Proprietary Network Information (CPNI) rules contained in 47 U.S.C. §222, Privacy of Customer Information (§222). Specifically, the Department seeks a waiver of the CPNI rules for the limited purpose of allowing the Department to effectuate the Local Exchange Election Process (LEEP) as established in Docket No. 94-10-05 DPUC Investigation of the Southern New England Telephone Company Affiliate Matters Associated with the Implementation of Public Act 94-83 (Dkt. 94-10-05) (Attached)¹

II. Background

In Docket No. 94-10-05, the Department approved the restructuring of the Southern New England Telephone Company, (SNET) into the "Telco" as the wholesale provider and SNET America Inc. (SAI) as the retail provider of local exchange service contingent upon the Department initiated a ballot process to allow all current SNET customers the opportunity to choose a new local exchange carrier. On its own Motion, the Department established Docket No. 97-08-12 DPUC Administration of the Local Exchange Election Process (Dkt. No. 97-08-12) to facilitate the ballot process. The proposed LEEP process provides for the ballot to contain all Connecticut certificated local exchange carriers (CLECs) who choose to be on the ballot, including SAI. The Department has determined that the LEEP process should be competitively neutral and that such a process is in the public interest.

NCS of Minneapolis Minnesota, has been retained as administrator of the ballot process and has recommended a procedure for implementing the ballot. The proposed process provides for all customers currently served by SNET to be migrated to one of the participating CLECs. In the first ballot stage all current SNET customers will receive a ballot containing a list of all eligible CLEC's, an information packet containing information on each participating CLEC, and instructions explaining how the customer chooses the CLEC of choice. Upon confirmation from NCS that a customer has chosen a particular CLEC, SNET must provide the CPNI information to the chosen CLEC. During the second ballot phase, those customers failing to choose a CLEC will be

¹ The Department notes that the dates for implementation have been changed.

allocated to a participating CLEC with the option to choose the CLEC of choice. Those customers failing to respond during this phase will remain with the allocated CLEC. Again the CPNI information must be transferred to the designated CLEC.

The LEEP committee which includes representatives of the CLECs, the Department and the Office of Consumer Counsel (OCC) has recognized that the FCC's current CPNI rules do not allow for the transfer of CPNI information without affirmative consent of the customer. The LEEP committee has considered requiring a signature from the customer or authorized representative on the ballot. However, the CPNI information that must be included would render the ballot too long and complicated to be effective. Furthermore, the added cost to the ballot would be prohibitive. Additionally, those customers who fail to respond and who therefore must be allocated to a CLEC will not have signed the ballot nor been notified of the CPNI rules. These customers would therefore not have given their consent to transfer CPNI information. In either instance, the Department cannot effectively comply with the CPNI rules and will therefore be unable to implement the ballot without a waiver by the FCC of the CPNI rules.

III Argument

In Dkt. No. 94-10-05, the Department has determined that the proposed LEEP ballot process is in the public interest because it provides the best opportunity for customer choice and will enhance effective competition. The Department does not believe that the ballot process can proceed without a waiver of the CPNI requirements contained in 47 CFR §64.2007 (2) iii and v. Specifically, the Department requests a waiver of the noted CPNI rules for the limited purpose of transferring CPNI information during the ballot process and only for the purpose of effectuating the ballot process. Without this waiver, the Department does not believe that the public interest will be served because an attempt to introduce effective competition will be thwarted.

Even if the Department tried to include a notice of CPNI rights and signature section to the ballot, the notice requirements would be too lengthy making it impossible for the notice to be in compliance with FCC rules. Additionally, NCS (from prior ballot experience) estimates that as many as 40% or approximately 560,000 of the customers will fail to respond to the initial ballot and would therefore be allocated to a participating CLEC. These customers will not have signed an authorization to release the CPNI to another carrier and could not, under the current rules, be assigned to a CLEC. Since SNET will no longer be in the local exchange business, these customers would have no local exchange carrier. Clearly this condition would not be in the best interest of Connecticut customers. The Department believes that the requested waiver is appropriate, because without said waiver the best interests of Connecticut customers would not be served.

The Department requests that it be allowed to order transfer of CPNI information from SNET to the chosen or allocated CLEC without customer consent for the limited purpose of allowing the ballot process to proceed and for the limited time period (approximately 6 to 7 months) of the entire ballot process.

The Department contends that strict compliance with the CPNI rules in this limited instance is inconsistent with the public interest since such compliance would frustrate the proposed ballot process. The Department further believes that a waiver is appropriate because the special circumstances in the instant case warrants a deviation from these rules.

Additionally, due to the proposed schedule for the ballot, slated to commence June 1999, the Department hereby requests expedited treatment of this waiver request to allow it to complete the necessary functions to effectuate the ballot by the target date.

IV Conclusion

The Department hereby requests that the FCC exercise its discretion to waive the CPNI requirements contained in 47 CFR 64.2007 (2) iii and v for the limited purpose of allowing the transfer of CPNI information during the ballot process without the express consent of the customer and for the limited time period of the actual ballot process. The Department further requests expedited treatment of this waiver request.

Respectfully submitted,

CONNECTICUT DEPARTMENT OF
PUBLIC UTILITY CONTROL

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

July 16, 1998

Connecticut Department of
Public Utility Control
Ten Franklin Square
New Britain, CT 06051

CERTIFICATION

A handwritten signature in cursive script, appearing to read "Miriam L. Theroux", is written over a horizontal line.

Miriam L. Theroux
Commissioner of the Superior Court



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 94-10-05 DPUC INVESTIGATION OF THE SOUTHERN NEW
ENGLAND TELEPHONE COMPANY AFFILIATE
MATTERS ASSOCIATED WITH THE IMPLEMENTATION
OF PUBLIC ACT 94-83

June 25, 1997

By the following Commissioners:

Thomas M. Benedict
Jack R. Goldberg
Janet Polinsky

DECISION

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